

MINUTES OF A PUBLIC HEARING CONDUCTED BY THE ST. LOUIS COUNTY BOARD OF ADJUSTMENT HELD **TUESDAY MARCH 15, 2011, NORTHLAND OFFICE CENTER, VIRGINIA, MN 9:00 a.m. – 9:45 a.m.**

Board of Adjustment members in attendance:

Diana Werschay – Chair
Tom Coombe
Steve Filipovich
Kurt Johnson
Kelly Klun
David Peterson (at 9:02 a.m.)
David Pollock

Board of Adjustment members absent:

None

Decisions/Minutes for the following public hearing matters are attached:

NEW BUSINESS:

- A. Francis Bussey, S15, T60N, R21W, French Township.
- B. Rocky Run LLC, S23, T50N, R16W, Solway Township.
- C. Michael Kaszynski, S20, T54N, R16W, Cotton Township.

OTHER BUSINESS:

Motion by Coombe/Filipovich to approve the February 15, 2011 minutes.

In favor: Coombe, Filipovich, Johnson, Pollock, Werschay - 5

Opposed: None – 0

Abstained: Klun – 1 (Klun was not present at the February 2011 meeting)

Motion carried 5-0-1

The first hearing item was *Francis Bussey*, S15, T60N, R21W (French).

Mark Lindhorst, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is asking to replace an existing cabin using an existing foundation located 80 feet from the lake.
- B. The cabin could be built at the 100 foot setback without impacting the septic system.
- C. The structure will be the same size as the existing structure with an additional 12 foot by 12 foot addition to the side.
- D. The existing foundation can be utilized minimizing the extent of excavation and vegetation removal.
- E. Though the property is steep from the building site to the shoreline, it does not meet bluff standards.
- F. The 80 foot setback would fall in line with existing structures in the neighborhood.

Donna O'Connor, Environmental Services, via report, stated that the Bussey cabin is served by a trench system installed with permit in 1995. The system was inspected in 2005 and was issued a Certificate of Compliance. The septic tank is located 49 feet north of the cabin and the septic field approximately 120 feet north of the cabin. These locations would not prevent moving the cabin back to the required setback. The system is sized for two bedrooms; adequate for the proposed new house.

Mark Lindhorst reviewed staff's conclusions as follows:

1. The request of the applicant is substantial because the applicant is asking for variance of 80 feet from the shoreline where St. Louis County Ordinance 46 requires 100 feet.
2. The variance will not have an effect on government services for the following reasons it is accessed off a public road and serviced by a permitted septic system.
3. If approved, the variance would not change the character of the neighborhood or be detrimental to the neighborhood because existing cabins within 150 feet of the proposed development are all within 70 feet of the shoreline.
4. The following alternatives could be used to eliminate the need for variance being requested. Construct a new cabin at 100 feet from the shoreline. However, the existing foundation can be utilized minimizing the extent of the excavation and vegetation removal. Also the new structure is only 144 square feet larger than the original cabin.
5. The practical difficulty occurred when the structure was built prior to setback standards. The existing cabin is in poor condition and needs to be replaced. The current foundation can be utilized decreasing the overall impact on the property.

Mark Lindhorst noted no items of correspondence.

Francis Bussey, the applicant, stated that their cabin is set back further from the lake than other cabins in the area. They would like to remain where they are. The front of the cabin was built 30 years before the rear of the cabin.

The *Board of Adjustment* discussed the following:

- A. Inquired if the foundation was on blocks or poured. *Mr. Bussey* stated that the foundation is poured.
- B. Inquired if the foundation is salvageable. *Mr. Bussey* stated that the foundation had been poured in sections and that some were in better shape than others.
- C. Board member Coombe asked about the stone fireplace. *Mr. Bussey* stated he would like to save the fireplace as it works great.

DECISION:

Motion by Coombe/Filipovich to approve a variance to replace an existing dwelling located 80 feet from the shoreline with the following findings of fact:

1. The request of the applicant is substantial because the applicant is asking for variance of 80 feet from the shoreline where St. Louis County Ordinance 46 requires 100 feet.
2. The variance will not have an effect on government services for the following reasons it is accessed off a public road and serviced by a permitted septic system.

3. If approved, the variance would not change the character of the neighborhood or be detrimental to the neighborhood because existing cabins within 150 feet of the proposed development are all within 70 feet of the shoreline.
4. The following alternative(s) could be used to eliminate the need for variance being requested: construct a new cabin at 100 feet from the shoreline. However, the existing foundation can be utilized minimizing the extent of the excavation and vegetation removal. Also the new structure is only 144 square feet larger than the original cabin.
5. The practical difficulty occurred when the structure was built prior to setback standards. The existing cabin is in poor condition and needs to be replaced. The current foundation can be utilized decreasing the overall impact on the property.

The following conditions shall apply:

1. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.
2. Vegetation shall be maintained between the cabin and the lakeshore.
3. Waste shall be disposed of in a manner acceptable to St. Louis County Solid Waste Ordinance 45.
4. Stormwater shall be directed away from the lake.
5. The septic replacement area shall be ribboned, roped off, or otherwise delineated and protected against impact by construction activities.

In Favor: Coombe, Filipovich, Johnson, Klun, Peterson, Pollock, Werschay – 7

Opposed: None – 0

Motion carried 7-0

The second hearing item was *Rocky Run LLC*, S23, T50N, R16W (Solway).

Tyler Lampella, St. Louis County Planner, reviewed the staff report as follows:

- A. This case was heard before the Planning Commission on March 10, 2011 with the condition that a variance was needed for the building setbacks.
- B. The previous owner constructed the 100 foot by 300 foot building upon receiving approval of a conditional use permit for a mini storage facility in November 2000.
- C. The sideyard setback variance is more substantial because the structure is only located ten feet from the side property line where 50 feet is required.
- D. There are wetlands on the property but the building is located outside of the wetlands on the highest portion of the property.

Ed Kerzinski, Environmental Services, via report, stated that the variance request is for a storage facility. There is no well, no plumbing in the building and no Individual Sewage Treatment System (ISTS).

Tyler Lampella reviewed staff's conclusions as follows:

1. The road centerline setback request of the applicant is not substantial because the applicant is asking for variance of 20 feet less than the 110 feet required, the road right-of-way variance request is substantial because the 20 foot setback is only 71 percent of the required 35 foot ROW and the side yard setback of ten feet is substantial because it is only 20 percent of the required 50 feet setback.

2. The variance will not have an effect on government services for the following reasons:
The same level of service would be required if the building met all setback requirements.
3. If approved, the variance would/would not change the character of the neighborhood or be detrimental to the neighborhood because the use/structure has been in place for at least 10 years.
4. The following alternative(s) could be used to eliminate the need for variance or decrease the extent of the variance being requested: the applicant could possibly purchase additional property to the east.
5. The practical difficulty occurred because the previous owner constructed the building in the wrong spot.
6. The construction was completed shortly after the conditional use permit approval in November 2000.
7. There are no similar structures in the area.
8. The county would benefit by the enforcement of the ordinance if compliance were required because the setbacks listed in the ordinance are established for the purpose of promoting the health, safety and welfare of the citizens of the county.
9. Staff does not know that the violation was intentional.

Tyler Lampella noted two items of correspondence from the Solway Town Board and the Solway Planning and Zoning committee in support of this variance request.

Brad Kolenda, the applicant, stated that when they purchased the property they were never notified that this building was too close. He would like to add another building to the small business.

Board member Filipovich asked if the building was below the road grade. *Tyler Lampella* stated that there are wetlands on the property, but where the building is constructed is the highest part of the property.

DECISION:

Motion by Coombe/Filipovich to approve a variance with the following findings of fact:

1. The road centerline setback request of the applicant is not substantial because the applicant is asking for variance of 20 feet less than the 110 feet required, the road right-of-way variance request is substantial because the 20 foot setback is only 71 percent of the required 35 foot ROW and the side yard setback of ten feet is substantial because it is only 20 percent of the required 50 feet setback.
2. The variance will not have an effect on government services for the following reasons:
The same level of service would be required if the building met all setback requirements.
3. If approved, the variance would/would not change the character of the neighborhood or be detrimental to the neighborhood because the use/structure has been in place for at least 10 years.
4. The following alternative(s) could be used to eliminate the need for variance or decrease the extent of the variance being requested: the applicant could possibly purchase additional property to the east.
5. The practical difficulty occurred because the previous owner constructed the building in the wrong spot.

6. The construction was completed shortly after the conditional use permit approval in November 2000.
7. There are no similar structures in the area.
8. The county would benefit by the enforcement of the ordinance if compliance were required because the setbacks listed in the ordinance are established for the purpose of promoting the health, safety and welfare of the citizens of the county.
9. Staff does not know that the violation was intentional.

The structure may remain at its current location providing the following conditions are met:

1. The building must be shown to be entirely on the applicant's property through means of a land survey.
2. All new structures must meet the required road and property line setbacks.

In Favor: Coombe, Filipovich, Johnson, Klun, Peterson, Pollock, Werschay – 7

Opposed: None – 0

Motion carried 7-0

The third hearing item was *Michael Kaszynski*, S20, T54N, R16W (Cotton).

Roanne Axdahl, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is requesting to construct a principal structure 90 feet from the shoreline.
- B. There is adequate screening from the lake.

Ed Kerzinski, Environmental Services, via report, stated that SSTS permit # 2367 was issued on January 25, 2011. The permit was issued for a two bedroom dwelling. The system design is for a 1,000 gallon septic tank, 500 gallon pump chamber dosing a 6 foot by 50 foot pressure mound with 24 to 31 inches of approved sand. The primary system site is south of proposed dwelling towards road and expansion area is located on west side of proposed dwelling. A variance was denied to install a holding tank on the property on December 14, 2010.

Roanne Axdahl reviewed staff's conclusions as follows:

1. The request of the applicant is not substantial because the applicant is asking for a variance of ten percent from the ordinance standards.
2. The variance will not have an effect on government services for the following reasons:
This is an already developed area with private road access.
3. If approved, the variance would not change the character of the neighborhood or be detrimental to the neighborhood because this is low-to-moderately developed area and the principal structures on each side of the proposed structure will be fairly aligned with the proposed structure.
4. The following alternative(s) could be used to eliminate the need for variance or decrease the extent of the variance being requested: constructing the principal structure wider and eliminate its length.
5. The practical difficulty occurred because the depth of the lot and where the septic system will be placed does not allow the structure to be moved.

Roanne Axdahl noted two items of correspondence from Douglas and Lois Rosenthal and the Cotton Planning Review Board in support of this variance request.

Michael Kaszynski, the applicant, stated that he has nothing to add.

The *Board of Adjustment* discussed the following:

- A. *Board member Coombe* asked about the deck and why it is not a part of the variance request. *Roanne Axdahl* stated that the deck is not included as long as it is not greater than 12 feet. *Mary Anderson*, Planning and Development Department, stated that they are able to construct a deck that is attached to a dwelling at a reduced setback provided that the deck doesn't extend into the shore impact zone as allowed by Ordinance.
- B. *Board member Coombe* asked about South Strand Lake Road. *Roanne Axdahl* stated that the cabin is located off of a private, unnamed road and that the fire number is actually located where the private road meets South Strand Lake Road which is a public road.

DECISION:

Motion by Filipovich/Klun to allow a principal structure 90 feet from the shoreline with the following with the following findings of fact:

1. The request of the applicant is not substantial because the applicant is asking for a variance of ten percent from the ordinance standards.
2. The variance will not have an effect on government services for the following reasons: This is an already developed area with private road access.
3. If approved, the variance would not change the character of the neighborhood or be detrimental to the neighborhood because this is low-to-moderately developed area and the principal structures on each side of the proposed structure will be fairly aligned with the proposed structure.
4. The following alternative(s) could be used to eliminate the need for variance or decrease the extent of the variance being requested: constructing the principal structure wider and eliminate its length.
5. The practical difficulty occurred because the depth of the lot and where the septic system will be placed does not allow the structure to be moved.

The following conditions shall apply.

1. Maintain existing vegetation extending to the lake.
2. The structure shall be unobtrusive (earth-tone) colors, including siding, trim and roof.

In Favor: Coombe, Filipovich, Johnson, Klun, Peterson, Pollock, Werschay – 7

Opposed: None – 0

Motion carried 7-0